



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

CALE MARCUS STRICKLAND,	§	
Plaintiff,	§	
	§	
vs.	§	CIVIL ACTION 7:19-00326-MGL
	§	
SPARTANBURG COUNTY SHERIFF'S	§	
OFFICE, STATE OF SOUTH CAROLINA,	§	
SPARTANBURG COUNTY OF THE STATE	§	
OF SOUTH CAROLINA, CHUCK WRIGHT,	§	
OFFICER SCHALL, OFFICER LEDBETTER,	§	
OFFICER PIGGINS, LIEUTENANT WILSON,	§	
LIEUTENANT SINNEN, SERGEANT	§	
ATKINS, SERGEANT BLEU, SERGEANT	§	
PICCOLO, and OFFICER CAMPBELL,	§	
	§	
Defendants.	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING PLAINTIFF'S ACTION
WITH PREJUDICE AND WITHOUT ISSUANCE AND SERVICE OF PROCESS**

Plaintiff Cale Marcus Strickland (Strickland) filed this action under 42 U.S.C. § 1983. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Strickland's action be dismissed with prejudice and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on March 6, 2019. Although Strickland's objections to the Report were due no later than March 20, 2019, he failed to file any document titled "Objections."

Instead, on March 16, 2019, the Clerk of Court entered Strickland's "Petition for Permission to Appeal." But, the Fourth Circuit's jurisdiction is limited to consider only final orders, 28 U.S.C. § 1291, and certain interlocutory and collateral orders, 28 U.S.C. 1292. Neither the Magistrate Judge's February 14, 2019, Order nor the Report fit into any of these three categories.

Because the Court is required to liberally construe pro se pleadings, *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978), holding them to a less stringent standard than those drafted by attorneys, *Hughes v. Rowe*, 449 U.S. 5, 9 (1980), and because Strickland's "Petition for Permission to Appeal" was filed within the time-frame that objections were to be filed, the Court has no choice other than to construe Strickland's "Petition for Permission to Appeal" as his objections to the Report, *see, e.g., Hester v. N.C. Atty. Gen.*, 199 F.3d 1327 (4th Cir. 1999) (unpublished table decision) (interpreting a "Notice of Appeal" as "Objections to the Report" when the petitioner filed a notice of appeal instead of objections to the Report during the time period for filing objections to the Report).

This Court need not conduct a de novo review of the record "when a party makes general and conclusory objections that do not direct the court to a specific error in the [Magistrate Judge's] proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982); *see also Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505, 508-09 (6th Cir. 1991) (holding

general objections are insufficient to preserve appellate review). In this case, Strickland made the most general of objections by merely stating his desire to appeal.

Strickland was warned of the consequences of failing to file specific objections. Report 14. In that Strickland neglected to specify the portions of the Report to which he objected, this Court holds he has waived appellate review.

After a thorough de novo review of the Report and the record in this case, the Court overrules Strickland's objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court that Strickland's action is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

Signed this 4th day of November, 2019, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to the Federal Rules of Appellate Procedure.